THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 27451 of 1996

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Dated: 12.12.2005

Between:

Kotra Laxmi Narayana, S/o Sri Kamiah,
Proprietor of Sri Lakshmi Srinivas Saw Mill,

R/o Haripuram, Mandasa Mandal, Srikakulam District.

..... PETITIONER

AND

1 The Divisional Forest Officer,
Srikakulam District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Order:

The present writ petition is filed seeking to declare the action of the respondents in seizing three perkies (components) from the petitioner's Saw Mill, namely Sri Lakshmi Srinivas Saw Mill and sealing the said Saw Mill on 09.11.1996, as illegal and arbitrary, and consequently to direct the respondents to release the said three perkies to the petitioner and forbearing them from interfering with the normal functioning of the petitioner's Saw Mill.

The case of the petitioner is that the respondents, without giving any prior notice, came to his Saw Mill on 09.11.1996 and seized three perkies (components) from his Saw Mill and sealed the Saw Mill by fixing the seals on the machines on the ground that he has not paid the compounding fee of Rs.28,443/- levied in

O.R. No.152 of 1995-1996. According to the petitioner, one Yamenla Mukalingam and J. Sundar Rao are accused in O.R. No.152 of 1995-1996 and he has nothing to do with the said case and that the compounding fee of Rs.28,443/- levied by respondent No.1, vide order dated 13.11.1995 in O.R. No.152 of 1995-1996, was already paid by accused No.1 therein, hence, the action of the respondents in seizing three perkies from his Saw Mill is illegal, arbitrary and contrary to the A.P. Saw Mills (Regulation) Rules, 1969. The petitioner further contends that subsequent to seizure of three perkies from his Saw Mill, he got a legal notice issued to respondent No.1 on 29.11.1996, and respondent No.1, having received the said notice, gave a reply dated 05.12.1996 stating that as the compounding fee of Rs.28,443/- was not recovered from Mukalingam, his Saw Mill parts were seized and Mill was sealed, which clearly indicates that he is no way connected with the case in O.R. No.152 of 1995-1996. He, thus, prays to direct the respondents to release the seized three perkies to him.

The respondents filed their counter stating that since the petitioner was found in possession of some illicit timber without any valid permit, the Saw Mill was seized and a case in OR. No. 152 of 1995-1996 was filed against the petitioner, which was compounded by levying a compounding fee of Rs.28,443/-. As the petitioner did not pay the said compounding fee, the licence of the Saw Mill was not renewed for 1995 and 1996 and the Saw Mill was seized. Even after seizure of the Saw Mill, as the petitioner was unauthorisedly running the Saw Mill and stored some timber in the premises illicitly, the respondents, on 09.11.1996, seized three perkies from the Saw Mill of the petitioner and registered a case in O.R. No.130 of 1996-1997. It is further stated that the petitioner is a habitual offender indulging in storing illicit timber in his premises without any valid permit, and he is involved in number of cases, so, the present seizure of perkies from the Saw Mill of the petitioner has nothing to do with the non-payment of compounding fee imposed by respondent No.1 in O.R. No.152 of 1995-1996.

Heard the learned counsel for the petitioner and learned Government Pleader for Forests.

The contention of the petitioner is that the respondents seized three perkies from his Saw Mill for not paying the compounding fee levied against one Y. Mukalingam and Janni Sundara Rao in O.R. No.152 of 1995-1996. Whereas, the

contention of the respondents is that the petitioner stored some illicit timber in his premises without any valid permit, and therefore, the perkies from the Saw Mill of the petitioner were seized and the Saw Mill was sealed, and the present seizure has nothing to do with the non-payment of compounding fee imposed by respondent No.1 in O.R. No.152 of 1995-1996.

Immediately after seizure of the perkies from the Saw Mill of the petitioner, the petitioner got a legal notice issued to respondent No.1, and respondent No.1, having received the said notice, got a reply notice dated 05.12.1996 issued to the petitioner stating that the perkies were seized because of non-payment of compounding fee of Rs.28,443/- levied in O.R. No.152 of 1995-1996. But, in the counter affidavit filed by the respondents, it is stated that the machinery of the petitioner's Saw Mill was seized because the petitioner kept the illicit timber in his premises. From the above, it is not clear on what grounds the respondents seized three perkies from the Saw Mill of the petitioner. The learned Government Pleader for Forests is also unable to explain the different stands taken by the respondents. Apart from that, the learned counsel for the petitioner contends that accused No.1, by name Yamenla Mukalinga in O.R. No.152 of 1995-1996 paid the compounding fee levied by respondent No.1, and therefore, there is no need for the petitioner to pay any amount as he is no way connected with the said case.

Be that as it may, since the writ petition is of the year 1996, and by virtue of an interim orders passed by this Court in W.P.M.P. No.33940 of 1996, dated 27.12.1996 the machinery, which was seized by the respondents from the petitioner's Saw Mill, was already released, without going into the merits of the matter,

I deem it appropriate to dispose of the writ petition with the following observations.

In the event if the petitioner has not paid the compounding fee, the respondents are at liberty to recover the same from him after issuing a show cause notice to him. If the petitioner contravenes any provisions of the Forest Act, the respondents are always at liberty to take appropriate action against the petitioner in accordance with the Rules.

With the above observations, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 12.12.2005

Nsr/Ksr